

INDIANA LEGISLATURE.

SENATE.

SATURDAY, FEB. 7, 1852.

The Senate met.

Petitions, &c., presented.

By Mr. Withers, on the subject of temperance. Referred to the committee on that subject.

By Mr. McCarty, a petition signed by the members of the Social Order of Temperance of the city of Indianapolis to the number of 679.

Mr. McCarty, in presenting the petition, stated that the Society was organized by a few halibut drinkers on the 27th day of January last, and that it had increased to the present number of members since that time. On motion of Mr. Saffler, the petition was laid on the table, and 1,000 copies ordered to be printed.

By Mr. Adams, from Mr. Ray, of Clark county, asking compensation for traveling forgers personal property.

By Mr. Berry, from citizens of Franklin and Dearborn counties, in relation to education. Referred to committee on education.

A message was received from the House requesting the Senate to attend in the Hall of the House for the purpose of electing a Reporter to the Supreme Court.

The Senate then proceeded to the House, and Horace E. Carter, of Montgomery county, was elected, when the Senate returned to their Chamber and resumed the order of business.

Reports from committees.

By Mr. Dougherty, from the committee on finance, returning the joint resolution asking the General Government for an appropriation for the erection of a public building on the Governor's Circle, in Indianapolis, with amendments, recommending its passage. Amendments concurred in, and the resolution engrossed.

By Mr. Craven, from same committee, recommending that the bill for the purpose of equalizing the land in the table. Concurred in.

The report from the committee on temperance, returning the temperance bill, came up in order.

The motion submitted by Mr. Emerson, to postpone till Friday, was agreed to.

Mr. Holloway, with the consent of the Senate, withdrew his motion to postpone till Monday.

The question then recurred on concurring in the amendments proposed by the committee.

Mr. Miliken asked the vote be taken on each amendment separately. Which was agreed to.

The first amendment proposed by the committee was to strike out the fourth section of the bill, which is as follows:

Sec. 14. That in all judgments under the provisions of this act, against any person either for damages or fines, all the property in the house in which the liquor is sold or given away, shall be liable to execution to satisfy such judgments; and if the property is not sold, then the real property owned in which such liquor is sold, shall be liable to execution to satisfy such judgments. Provided, That real estate not belonging to the owner shall not be liable to execution for the first offense either against individuals.

And insert the following substitute:

Sec. 14. That in all cases under this act where judgment shall be rendered against any defendant, that he or she stand committed until the fine and costs be paid or repaid; if such fine and costs are not paid or repaid, the defendant shall remain in prison until such imprisonment shall amount to said fine and costs at fifty cents per day, counting as nothing any fraction less than fifty cents, and upon all other judgments the personal property of the defendant alone shall be liable to execution.

A division of the question having been called for, the Senate agreed to strike out.

Agreed—Messrs. Alexander, Allen, Athon, Briggs, Craven, Crawford, Davis, Dunn, Eddy, Goodman, Henton, Hester, Hickman, Hicks, Holloway, James, Kendall, Logan, Marshall, McCarty, McKillop, Nickell, O'Neil, Reed, Slack, Sleigh, Walker, Washburn, Winstead, and Withers—29.

Next—Messrs. Berry, Dawson, DeFeves, Dougherty, Hanna, Kinard, Knox, Miller, Miliken, Spann, Teegarden, and Turtan—12.

Mr. Hanna proposed to amend by striking out that portion which requires imprisonment for costs, and insert the following:

Mr. Holloway was proceeding to speak upon this motion, when Mr. Hanna remarked that he did not expect his motion would have excited debate, but as it did he would withdraw it.

Mr. Miliken moved the vote upon inserting the substitute proposed by the committee for the fourth section would be a test vote upon the bill. He then proposed to speak at some length in favor of the bill.

Mr. Spann replied to Mr. Miliken. He said that in his country many of these temperance petitions were signed by schools, including all the children as well as teachers. Many of them were signed by ladies. A third class of signs, consisting probably of voters, but many of even these names were signed by a single person, and in some instances one person signed a considerable number of times. He was certain that at least two-thirds of the 60,000 persons signing these petitions were not such as should govern legislative action, nor would he permit these petitions to be taken into consideration as a Senator. He hoped the amendment would not be adopted.

Mr. Dunn thought the bill was an intemperance rather than a temperance measure. It was calculated to create agitation and excitement, and would do more harm than good. He had hoped that the temperance men would have been satisfied with moderate measures, but as this bill, which was one wholly of pains and penalties, was introduced, they would be satisfied with it, he should be constrained to vote against it.

Mr. Holloway replied to Mr. Dunn, and defended the bill at some length.

Before a vote was taken.

Mr. Spann offered a resolution to adjourn till Monday morning at 9 o'clock. Adopted.

Senate adjourned.

(When the district bill was under consideration in the Senate, on Thursday last, Mr. Nickell alluded to a fourth house member of the temperance party in the fourth district as having some influence in the members of that district, to which Mr. Miliken replied as follows:

The Senator from Martin has alluded to a certain friend distinguished men in Dearborn county as having something to do in settling this matter. All I have to say, on this subject, is, that if there be such a friend, it has had no influence on me. I, sir, have been governed throughout the whole proceedings on this subject by a desire to reduce my district to its proper size in point of number of inhabitants, and to propose, to strike off this district, which is too large, and it is unnecessary to suppose that in the old settled part of the State that we could form a district consisting of much less than 100,000 inhabitants, and it was unnecessary to ask it. Well, then, there was but one thing to be done to reduce the district to about the proper size, and that was to strike off Switzerland county. Senators talk about old ties, and old associations; would those ties and old associations have been more easily broken off with Rush county? The commercial intercourse of Switzerland is much more closely blended with Jefferson county, which is in the same district with Switzerland, according to the provisions of this bill, than with any other county in the State, which is now attached. On the other hand, Rush has a considerable number of emigrants from the State, and has a considerable number of grocers in exchange. So, Mr. President, it would be about as hard to sever the ties of friendship in one case as the other, and we have to decide against Switzerland, as it reduces our district to about the right number of inhabitants. If gentlemen have been governed by private feelings in proposing to retain Switzerland, striking off Rush, or vice versa, it is their fault, not mine. I have voted as I judged was right in the premises, without paying any attention to other districts. I have left other Senators to attend to their own districts, so when the bill comes down from the House with my district as I desired, it received my support, and I am ready now to vote for it on its final passage.)

HOUSE OF REPRESENTATIVES.

SATURDAY MORNING, FEB. 7, 1852.

The House met.

Petitions were presented by Messrs. Sumner, Porter, and Gunn, and appropriately referred.

Reports from committees.

Mr. Graham made a report from a select committee, to whom had been referred a joint resolution asking Congress for a grant of land to aid in removing obstructions in certain streams, asking that all streams, named, except the Patoka river, be stricken out; which was agreed to, and the joint resolution ordered to a third reading.

Mr. Hunter submitted a resolution instructing the committee on the organization of courts, to adopt such provisions in a general law as will confer power upon the judges to change the time of holding courts in their respective circuits; adopted.

Bills introduced.

Mr. Suit introduced a bill to authorize county auditors and their deputies to take acknowledgments of mortgages to trust funds, and to administer oaths to appraisers of real estate mortgaged. Read the first time.

Orders of the day.

A number of bills were read the second time and appropriately disposed of, among others the bill to divide the State into five Supreme Judicial Districts.

Mr. Harpham moved to amend by striking out five wherever it occurs and inserting three.

Mr. Holman hoped that the House would vote directly upon this proposition, as it was necessary to obtain

the sense of the members, so that it may be known what number of Supreme Judges we are to have.

Mr. Owen moved to amend the amendment by striking out the word wherever it occurs, and inserting three, so that there should be an increase of the number, yet he was not favorable to five.

Mr. Gookits was in favor of four, and he thought that with a reformation of the practice of the court, this number would be requisite.

Mr. Gibson thought that during the next ten years the number of the cases in that court will be doubled, and that in order to have these cases adjudicated speedily, there should be an increase. He was willing to go for the number four.

Pending the question, Mr. Gibson moved to invite the Senators to attend in the Hall of the House, to go into an election of a Reporter for the Supreme Court, which was agreed to, and the Senators appeared, and the Joint Convention proceeded to an election; when

Horace E. Carter of Montgomery county was elected without opposition, to serve until the second Tuesday of October next, or until his successor is elected and qualified.

The House resumed the consideration of the bill to divide the State into five Supreme Judicial Districts.

The question pending being the amendment of Mr. Owen, to increase the number of Supreme Judges to four.

Mr. Hudson opposed the increase of the number of the Judges of the Supreme Court.

Mr. Brady also opposed an increase.

Mr. Stoddard said that the present Judges of the Supreme Court undoubtedly have done all that could be expected of them, yet it was impossible for them to do the business that comes before them. He thought that the number of the judges should be increased.

After some further debate, the House refused to concur in Mr. Owen's amendment.

The amendment of Mr. Humphreys was then concurred in.

Mr. Gibson moved to commit the bill, with instructions to reduce the number of circuits to three, and to hold one term of the court in every county in the State, and the Judges to decide the same within twenty-four hours after the same has been submitted.

Mr. Holloway moved to lay the amendment on the table; carried.

Mr. Nelson moved to commit the bill, with instructions to district in accordance with the expressed will of the House.

Mr. Nelson moved to amend the instructions; which was not agreed to.

The bill was then committed with the instructions of Mr. Nelson.

Mr. Stoddard moved to take from the table a bill authorizing the construction of plank, MacAdamized, and gravel roads; which was agreed to.

The question pending being a motion of Mr. Owen to re-commit the bill with instructions to provide a graded road to pay the fine assessed on all bridges more than fifty feet span that may occur on any plank road.

Mr. Manson moved to amend the instructions by incorporating a provision to prevent all plankroads from creating a toll-gate within one mile of the corporate limits of any incorporated town, and that when any toll-gate has been erected, the company erecting the same shall be compelled to move the same.

The House refused to concur in the amendment to the instructions—yes 19, no 66.

Mr. Stoddard moved to reconsider the vote, and that the motion to reconsider be postponed until Monday next; which was agreed to.

Mr. Stuart submitted a resolution relative to the organization of courts.

Mr. Holman moved to postpone the subject until Thursday next, at 10 o'clock, and make it the special order of the day; which was agreed to.

The House adjourned.

SENATE.

MONDAY, FEB. 9, 1852.

Senate met.

Petitions, &c., presented.

By Mr. Reid, of citizens of Fayette county, for a free land law. Referred to a select committee of which he is chairman.

On motion of Mr. Slack, the order of business was suspended, and messages of the House were taken up and disposed of.

The question was upon inserting the substitute for the 14th section, reported by the select committee.

Mr. Saffler being entitled to the floor, made a long and eloquent defense of the principles of the bill and the temperance cause.

Mr. Miliken moved to strike out all that part that relates to imprisonment for costs. Yes 23, no—Messrs. Crawford, Dawson, Miliken, Odell, Saffler and Teegarden—10.

Mr. Reid moved to except women from the imprisonment clause. Lost—yes 17, no 18.

Mr. Hanna moved to discharge a defendant from imprisonment when it shall appear that he has no property in the State, and is unable to pay the fine.

After some debate Mr. Hanna withdrew his motion. Mr. Dunn moved to amend so as to make all violations of law punishable by imprisonment, when the fine should not be paid.

The President declined the motion to be out of order, when Mr. Dunn renewed Mr. Hanna's motion to amend.

Mr. Berry moved to lay the amendment on the table. Lost—yes 20, no 16.

Mr. Miliken moved the adoption of the amendment. Mr. Dunn favored it, and denounced the extreme measures proposed by the bill as fanaticism and the advocates of extremely stringent temperance measures as fanatics. He insisted some provisions of Maine law as necessary to its application.

Mr. Holloway replied to Mr. Dunn.

Mr. Miliken also replied to Mr. Dunn and spoke in opposition to the amendment proposed by Mr. Dunn. Mr. Dunn favored the Maine law, the friends of temperance were willing to accept it instead of the bill under consideration.

Mr. Dunn replied that he did not favor the Maine law in detail, but only the provisions he mentioned.

Senate adjourned.

ATTEENON SESSION.

Senate met.

The consideration of the temperance bill was resumed.

Mr. Miliken moved to lay the amendments on the table for the present, in order to read the bill through by sections, for the purpose of amending it, as in committee of the whole; which was agreed to.

The second section being read, Mr. Berry moved to strike out the portion prohibiting the giving away of liquor.

Mr. Miliken moved to lay the amendment on the table, as he wished to propose, at the proper time, an amendment which, if adopted, would supersede the second section. Carried—yes 23, no 16.

The third section having been read, Mr. Miliken moved to strike out the second and third sections and insert the following:

Sec. — It shall not be lawful, after the date aforesaid, (first day of May, 1852,) for any person engaged in the business of selling or giving away intoxicating liquor, to sell, barter, or give away, intoxicating liquor in any quantity to a minor, or when said liquor is in whole or in part to be drunk by a minor under the age of eighteen years, without the consent of the parent or guardian of such minor, or to a person who is at the time in a state of intoxication, or who is in the habit of getting intoxicated, nor when said liquor is in whole or in part to be drunk by a person who is at the time in a state of intoxication, or who is in the habit of getting intoxicated.

And any person or persons, by themselves or agents, of selling or giving away of the provisions of this section, shall, for the first offense, be fined not less than one hundred and five dollars, and for each subsequent offense, not less than two hundred and ten dollars, and in either case be imprisoned for not less than thirty days, nor more than sixty days.

Mr. Spinn moved to strike out all in relation to imprisonment.

Mr. Eddy moved to lay the amendment proposed by Mr. Miliken, and the amendment to the amendment proposed by Mr. Spann, on the table. Carried—yes 26, no 14.

Mr. Eddy moved a verbal amendment to the section under consideration, (the third,) which was adopted—yes 21, no 9.

Mr. Hester moved to amend by striking out all after the word "and" in the second section, and insert in its provisions to the celebrated Wisconsin law.

Mr. Hester spoke in favor of his amendment. He predicted that if the law asked for by the temperance men should be enacted, a revolution would take place in public sentiment, and the next Legislature would be called upon to enact laws as extreme in the other direction.

Messrs. Miliken and Holloway opposed the amendment.

Mr. Spann being obliged to choose between the proposition of the Senator from Monroe and the bill before the Senate, chose the former. He thought it impolitic to restrain the manufacture and sale of liquor, because such restrictions were just so many restrictions upon the agricultural interests of the country. As this is a grain growing State, he thought no laws should be passed to restrain in any degree the growth or sale of agricultural products.

Mr. Hester upon the table; lost, yes 15, no 22.

Mr. Holloway then moved to amend Mr. Hester's amendment, so that a person fined shall stand committed until the fine be paid or repaid; lost, yes 18, no 21.

Mr. Holloway moved to amend Mr. Hester's amendment, so that the usual implements of a tipping house, such as decanters, &c., shall be taken as evidence that

the defendant sells intoxicating liquors; lost, yes 14, no 22.

Mr. Miliken moved the previous question, which was not agreed to.

Mr. Reid moved to amend the amendment by adding the following additional section:

Sec. — That hereafter it shall not be lawful for any person or persons, by themselves or agents, to barter or sell any kind of intoxicating liquor whatever, in any quantity less than one quart at one time, or keep what is commonly called a tipping house, in which spirituous liquors are either sold, bartered, or given away, to be drunk in said house, out-house, garden, yard, or apartment, licitly or illicitly; and any person or persons shall violate any of the provisions of this section, every such person shall be fined for the first offense the sum of ten dollars, and for each and every subsequent offense, not less than twenty dollars, and in either case be imprisoned for not less than thirty days, nor more than sixty days; and the said person or persons shall be liable to amend by adding the following additional section:

Sec. — That in all trials of cases for the violation of the second section of this act, it shall be sufficient in the absence of more direct testimony to prove that the defendant has sold or given away intoxicating liquor, or a part of them, or that drunken persons are frequently seen in or about his or her house, or that the witness verily believes that the article drunk in his presence was intoxicating liquor, to establish the fact that the defendant has sold or given away intoxicating liquor, or a part of them, or that drunken persons are frequently seen in or about his or her house, or that the witness verily believes that the article drunk in his presence was intoxicating liquor, to establish the fact that the defendant has sold or given away intoxicating liquor, or a part of them, or that drunken persons are frequently seen in or about his or her house, or that the witness verily believes that the article drunk in his presence was intoxicating liquor, to establish the fact that 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